



ney's Docket No.: 14184-008001

RECEIVED  
MAY 01 2003  
TECH CENTER 1636/2330

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Robert W. Busby et al.  
Serial No. : 09/487,558  
Filed : January 19, 2000  
Title : METHODS FOR IMPROVING SECONDARY METABOLITE PRODUCTION  
IN FUNGI

Art Unit : 1636  
Examiner : K. Davis

Commissioner for Patents  
Washington, D.C. 20231

#33/E  
Huta  
G-1-03

RESPONSE TO RESTRICTION REQUIREMENT

Responsive to the action mailed March 26, 2003, applicant elects the invention of Group I, claims 104-109, 113, 119, 144-148, 150-153, 156, 157 and 160 drawn to a "method for modulating the production of a secondary metabolite, specifically a polyketide, by over-expressing a gene in a fungus. The election is made with traverse. The Examiner asked that if Applicant elects a Group that includes claim 104, 108 or 150, Applicant select one of the listed genes in each claim. Applicant elects creA. This election is made without traverse.

Applicant respectfully requests that Groups II, VI, and VII be examined together with Group I. The claims in Group II, claims 104-108, 110, 113, 119, 144-148, 150-153, 156, 157 and 161, are drawn to a method for modulating the production of a polyketide by conditionally expressing a gene. Applicant believes that these claims should be examined together with the claims of Group I because overexpression and conditional expression both relate to the expression level of the selected gene. In both cases the expression level of the gene is altered. Thus, the methods are not unrelated, as suggested by the examiner. Accordingly examination of the claims will be more efficient if Groups I and II are examined together. The claims in Groups VI and VII are related to methods for producing a fungal cell with improved polyketide production and the resulting cells by transforming the cells with a nucleic acid encoding a

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

April 24, 2003  
Date of Deposit

Carrie A. Amonte  
Signature

Carrie A. Amonte  
Typed or Printed Name of Person Signing Certificate

Applicant : Robert W. B et al.  
Serial No. : 09/487,558  
Filed : January 19, 2000  
Page : 2 of 2

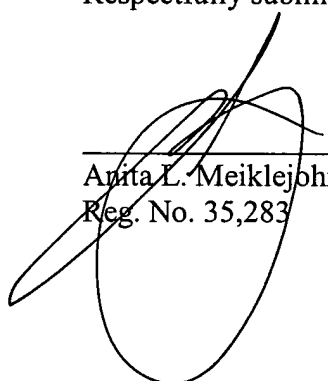
rney's Docket No.: 14184-008001

particular protein. In the case of Group VI, the method includes transforming the cells with an overexpressed gene. In the case of Group VII, the method includes transforming the cells with a conditionally expressed gene. The claims in Group VI are closely relate to the claims in Group I and the claims in Group VII are closely related to the claims in Group II. Accordingly, prior art searching and examination of the claims in Groups I, II, VI, and VII will be more efficient if the Groups are examined together.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 24 APRIL 2003

  
\_\_\_\_\_  
Anita L. Meiklejohn, Ph.D.  
Reg. No. 35,283

Fish & Richardson P.C.  
225 Franklin Street  
Boston, Massachusetts 02110-2804  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906



Jorney's Docket No. 14184-008001

RECEIVED

MAY 01 2003

TECH CENTER 1600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Robert W. Busby et al.

Art Unit : 1636

Serial No. : 09/487,558

Examiner : K. Davis

Filed : January 19, 2000

Title : METHODS FOR IMPROVING SECONDARY METABOLITE PRODUCTION  
IN FUNGI

Commissioner for Patents  
Washington, D.C. 20231


PRELIMINARY AMENDMENT

Prior to examination, please amend the application as indicated on the following pages.  
Applicant asks that all claims be examined in view of the amendment to the claims and remarks  
contained on the following sheets, a total of 7 pages.

Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 24 APR 2003

  
Anita L. Meiklejohn, Ph.D.  
Reg. No. 35,283

Fish & Richardson P.C.  
225 Franklin Street  
Boston, Massachusetts 02110-2804  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906

20633552.doc

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being  
deposited with the United States Postal Service as first class mail with  
sufficient postage on the date indicated below and is addressed to the  
Commissioner for Patents, Washington, D.C. 20231.

April 24, 2003  
Date of Deposit

Carrie A. Amonte  
Signature

Carrie A. Amonte  
Typed or Printed Name of Person Signing Certificate